

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

WILLIAM MCCARDELL	§	
VS.	§	CIVIL ACTION NO. 1:05cv468
BARRY LIVINGSTON, ET AL.	§	

MEMORANDUM ORDER OVERRULING PLAINTIFF’S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff William McCardell, an inmate confined at the Larry Gist State Jail, proceeding *pro se*, filed this civil action against Barry Livingston, Jerry White, Rizalino Reyes, D. Wilhite, and Penny Hashop.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action without prejudice pursuant to 42 U.S.C. § 1997e(a) for failure to exhaust administrative remedies.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at BEAUMONT, Texas, on this the 28 day of July, 2005.

A handwritten signature in black ink, appearing to read 'Howell Cobb', is written over a horizontal line.

HOWELL COBB
UNITED STATES DISTRICT JUDGE